



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,915	08/31/2001	Andreas Westendorf	10191/2007	3903
7590 KENYON & KENYON One Broadway New York, NY 10004			EXAMINER PYZOCHA, MICHAEL J	
			ART UNIT 2437	PAPER NUMBER
			MAIL DATE 04/03/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/944,915

Applicant(s)

WESTENDORF ET AL.

Examiner

MICHAEL PYZOCHA

Art Unit

2437

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-43, 45, 46, 49 and 50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-43, 45, 46, 49 and 50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. Claims 22-43, 45, 46, 49 and 50 are pending.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/02/2009 has been entered.

Claim Objections

3. Claims 22, 24 and 34 objected to because of the following informalities: the first limitation of the body of each of these claims recites "the motor controller" it should read "the motor vehicle controller". Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 22-24, 26-34, 36, 38-43, 45 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez (US 5334824) in view of Brunts et al. (US 5887269) and further in view of Schalk et al. (US 20030154075).

As per claims 22-24, 41-43, 45 and 50 Martinez discloses transmitting first data to a first processor from one of a data medium drive and a third processor (see column

3 line 57 through column 4 line 6); determining second data as a function of the first data (see column 6 lines 9-11 where encrypting the data transforms it to second data) transmitting second data to a second processor (see column 4 lines 3-17); checking the second data in the second processor to determine if the first data may be processed in the first processor (see column 4 lines 17-22); transmitting a positive check result to the first processor, the check result being a positive check result or a negative check result (see column 4 lines 17-47); responsive to a positive check result, processing the first data at the first processor (see column 4 lines 17-22 i.e. printing the receipt).

Martinez et al. fails to explicitly disclose the first data is transmitted to a motor vehicle controller and fails to disclose the second data includes a cross-check sum of a segment of the first data.

However, Brunts et al. teaches processing first data in a vehicle controller when authorized to do so (see column 15 line 66 through column 16 line 67) and Schalk et al. teaches the use of a check sum when sending credit card data (see paragraph [0026]).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to process the data of Martinez in a vehicle controller and to include a check sum on the sent data.

Motivation to do so would have been to allow for updates to the information in the vehicle (see Brunts et al. column 16 lines 13-39) and to improve the recognition accuracy during validation of credit card numbers (see Schalk et al. paragraph [0026]).

As per claim 26, the modified Martinez, Brunts et al. and Schalk et al. system discloses checking an error-free transmission in at least one of the first processor and the second processor (see Schalk et al. paragraph [0026]).

As per claims 27 and 28, the modified Martinez, Brunts et al. and Schalk et al. system discloses the data is transmitted in encoded form (see Martinez column 6 lines 9-11 and Schalk et al. paragraph [0026]).

As per claims 29 and 30, the modified Martinez, Brunts et al. and Schalk et al. system discloses connecting the first processor to the second processor and the second processor to a third processor using a wireless connection (see Martinez column 4 lines 17-47)

As per claims 31, 33-34 and 36, the modified Martinez, Brunts et al. and Schalk et al. system discloses accessing a database and allowing and storing data (see Martinez column 4 lines 17-47 and Brunts et al. column 16 lines 13-39).

As per claim 32, the modified Martinez, Brunts et al. and Schalk et al. system discloses, initiating by the second processor a payment process as a function of the second data (see Martinez column 4 lines 17-47).

As per claim 38, the modified Martinez, Brunts et al. and Schalk et al. system discloses delivering a warning if the first data is not released (see Brunts et al. column 16 lines 13-39).

As per claims 39 and 40 the modified Martinez, Brunts et al. and Schalk et al. system discloses determining a first check code is determined from the first data; and

forming the second data at least in part from the first check code (see Martinez column 6 lines 9-11 and Schalk et al. paragraph [0026]).

6. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Martinez, Brunts et al. and Schalk et al. system as applied to claim 22 above, in view of Okada (US 6704872).

As per claim 25, the modified Martinez, Brunts et al. and Schalk et al. system discloses transmitting the first data to the first processor from a third processor (see Martinez column 3 line 57 through column 4 line 17), but fails to disclose including an identity of the processor with the authentication information.

However, Okada teaches including such information (see Abstract).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to including the identity of the processor with the information of the modified Martinez, Brunts et al. and Schalk et al. system.

Motivation to do so would have been to restrict the use of a specific software program to a single processor (see Okada abstract).

7. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Martinez, Brunts et al. and Schalk et al. system as applied to claim 22 above, in view of Gurr (US 4264960).

As per claim 35, the modified Martinez, Brunts et al. and Schalk et al. system fails to disclose starting a check of the first data in the first processor; and restarting the check in the first processor if the check has not been run through completely.

However, Gurr et al teaches such a check (see column 16 line 52 through column 17 line 3).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the checking system of Gurr in the modified Martinez, Brunts et al. and Schalk et al. system.

Motivation to do so would have been to check a message for errors (see Gurr column 16 line 52 through column 17 line 3).

8. Claims 37 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Martinez, Brunts et al. and Schalk et al. system as applied to claim 22 above, in view of Coley et al. (US 5790664).

As per claim 37, the modified Martinez, Brunts et al. and Schalk et al. system fails to disclose deleting data if there is no license.

However, Coley et al. teaches such a practice (see column 14 lines 57-67).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to delete the content of the modified Martinez, Brunts et al. and Schalk et al. system if there is no license.

Motivation to do so would have been to protect the data from unauthorized use (see Coley et al. column 14 lines 57-67).

As per claim 46, the modified Martinez, Brunts et al., Schalk et al. and Coley et al. system discloses the checking is executed at specifiable time intervals (see column 8 lines 54-69 and column 9 lines 1-22 and 42-51).

9. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Martinez, Brunts et al. and Schalk et al. system as applied to claim 22 above, and further in view of Shamoon et al. (US 7233948).

As per claim 49, the modified Martinez, Brunts et al. and Schalk et al. system fails to explicitly disclose deleting the first data in response to a negative check result.

However, Shamoon et al. teaches deleting when a result is negative (see column 9 lines 34-43).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to delete the content of the modified Martinez, Brunts et al. and Schalk et al. system.

Motivation to do so would have been to prevent unauthorized alterations (see Shamoon et. al column 9 lines 34-43).

Response to Arguments

10. Applicant's arguments with respect to claims 22-43, 45, 46, 49 and 50 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kao, FitzGerald, Mathis, Fayyad, Ahrens, Witkowski, Cannon, Rozin and Yanagisawa teach methods of authorizing the use of data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL PYZOGA whose telephone number is (571)272-3875. The examiner can normally be reached on Monday-Thursday, 7:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Michael Pyzoga/
Examiner, Art Unit 2437